

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TIMOTHY B. GENTRY,

Petitioner,

v.

RANDALL HEPP,¹

Respondent.

OPINION & ORDER

21-cv-325-jdp

Pro se prisoner Timothy B. Gentry is proceeding on a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his 2017 convictions in state court for first-degree sexual assault of a child. In response to the court's order to show cause, the government moves to dismiss the case or, alternatively, transfer the case to the Eastern District of Wisconsin. Dkt. 18.

Prisoners bringing petitions under § 2254 "are required to file either in the district in which they are confined or in the district in which the court that sentenced them is located." *Bridges v. Chambers*, 425 F.3d 1048, 1050 (7th Cir. 2005) (citing 28 U.S.C. § 2241(d)). In this case, the Eastern District of Wisconsin is where Gentry was sentenced and where he is incarcerated. Gentry does not object to a transfer. Dkt. 20.

Because improper venue is waivable in a habeas action, *Moore v. Olson*, 368 F.3d 757, 758 (7th Cir. 2004), the court does not consider venue when screening petitions. But now that the government has raised the objection, I will transfer this case to the Eastern District.

¹Gentry named the State of Wisconsin as the respondent. But the proper respondent in this habeas action is Gentry's custodian, warden Randall Hepp. Dkt. 19. I have updated the caption accordingly.

ORDER

IT IS ORDERED that respondent Randall Hepp's motion to dismiss or transfer venue, Dkt. 18, is GRANTED. This clerk of court is directed to transfer this case to the United States District Court for the Eastern District of Wisconsin.

Entered February 11, 2022.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge